

AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 21, 2003
AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1348

Introduced by Assembly Member Lowenthal

February 21, 2003

An act to amend Sections 25200.19 and 25250.7 of, and to add Section 25160.6 to, the Health and Safety Code, ~~and to add Section 42702 to the Public Resources Code, relating to~~ relating to hazardous ~~and solid~~ waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1348, as amended, Lowenthal. Hazardous ~~and solid~~ waste.

(1) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.

This bill would require a *an offsite* facility operator that rejects an entire shipment or partial shipment of hazardous waste to either return the waste to the generator, or direct the waste to an approved alternate designated facility agreed upon by the generator.

The bill would provide that a facility operator that rejects an entire shipment or partial shipment of hazardous waste is not the generator,

arranger for disposal, nor a transporter, as specified, of that hazardous waste. The bill would specify accumulation limits on the ~~generation~~ *generator* of hazardous waste who receives a rejected shipment.

The bill would require a generator or transporter to instead comply, as specified, with federal regulations, if the United States Environmental Protection Agency adopts regulations pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) that preempt, or are more stringent than, state regulation.

Since a violation of these requirements would be a crime pursuant to other provisions of law, the bill would impose a state-mandated local program by creating new crimes.

(2) Existing law allows a hazardous waste facility that meets specified conditions to conduct bulk, packaged, or containerized unloading and loading operations, as defined, pursuant to specified criteria, including that the loading or unloading be conducted within secondary containment that meets the requirements of any regulations adopted by the department for bulk transfers.

This bill would *require the department's secondary containment standards to require spill and leak containing capacity and would* authorize the department to establish specific secondary containment standards for bulk transfer areas *that allow the practical use of trucks and railcars.*

(3) Existing law defines “used oil” for purposes of the provisions regulating the handling of used oil and prohibits any person who generates, stores, or transfers used oil from intentionally contaminating used oil with other hazardous waste, except as specified. Existing law allows a used oil recycling facility to mix used oil with a contaminated petroleum product or with an oily waste, other than wastes listed as hazardous under specified federal law, under certain conditions. A violation of the laws regulating used oil is a crime.

This bill would allow a used oil transfer or recycling facility to mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous if the facility is authorized by the Department of Toxic Substances Control pursuant to a hazardous waste facilities permit, standardized permit, or other grant of authorization from the department. Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(4) ~~Existing law, the California Integrated Waste Management Act of 1989, requires the Director of Transportation, upon consultation with~~



~~the California Integrated Waste Management Board, to review and modify all bid specifications relating to the purchase of specified paving materials and backfill materials using certain recycled materials. The act requires the State Procurement Officer, in purchasing materials to be used in paving or paving subbase for use by the Department of Transportation and other state agencies that provide road construction and repair services, to make contracts available for items that utilize recycled materials in paving materials and base, subbase, and previous backfill material, unless the Director of Transportation determines that the use of the materials is not cost-effective based on specified factors.~~

~~This bill would require the director and the board, on or before July 1, 2004, to jointly report to the Legislature concerning the implementation of those recycled paving materials provisions, as specified.~~

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 25160.6 is added to the Health and
2 Safety Code, to read:

3 25160.6. (a) An offsite hazardous waste facility operator that
4 rejects a partial or full shipment of hazardous waste shall either
5 return the waste to the generator or direct the waste to an approved
6 alternate designated facility agreed upon by the generator.

7 (b) For purposes of receiving hazardous waste rejected by an
8 offsite hazardous waste facility operator, the generator of the
9 hazardous waste shall be considered a designated facility for the
10 receipt of hazardous waste generated by that generator. For
11 purposes of this section, “designated facility” has the same
12 meaning as that term is defined in Section 66260.10 of Title 22 of
13 the California Code of Regulations, including any amendments
14 thereto.



(c) A facility operator that rejects an entire shipment or a partial shipment of hazardous waste pursuant to this section is not a generator of that hazardous waste for purposes of this chapter, including any regulations adopted pursuant to this chapter, nor an arranger for disposal of the waste, nor a transporter who chooses the location for disposal of waste under Chapter 6.8 (commencing with Section 25300) and the federal law definitions referenced therein.

(d) The generator of hazardous waste who receives a rejected shipment of that waste may accumulate the rejected waste onsite for 90 days or less, in accordance with the requirements of paragraph (1) of subdivision (a) of Section 66262.34 of Title 22 of the California Code of Regulations. The generator of the rejected waste shall label or mark the waste in a manner that indicates that it is rejected waste and shall include the date it was received by the generator. If a generator of the rejected waste commingles it with other wastes, the shorter of any applicable accumulation limits shall apply to the commingled waste.

(e) To the extent that the United States Environmental Protection Agency adopts regulations under the federal act that preempt or are more stringent than the requirements of this section, offsite hazardous waste facilities generators and transporters shall instead comply with those regulations on and after the date those federal regulations become effective in California, or on and after the effective date of regulations adopted by the department in accordance with those federal regulations, whichever date occurs first.

SEC. 2. Section 25200.19 of the Health and Safety Code is amended to read:

25200.19. (a) A hazardous waste facility that obtains a hazardous waste facilities permit to receive hazardous wastes from offsite locations may conduct bulk, packaged, or containerized hazardous waste unloading operations in accordance with the requirements of this section, except to the extent that the facility is subject to conditions and limitations in the permit concerning the receipt and unloading of hazardous wastes from offsite locations.

(b) A hazardous waste facility that has a hazardous waste facilities permit may conduct bulk, packaged, or containerized hazardous waste loading operations in accordance with the requirements of this section, except to the extent that the facility

1 is subject to conditions and limitations in the permit concerning the
2 shipment and loading for shipment of hazardous wastes to offsite
3 locations.

4 (c) Unloading and loading operations subject to subdivisions
5 (a) and (b) shall be conducted in accordance with all of the
6 following requirements, unless otherwise specified in the
7 hazardous waste facilities permit:

8 (1) As part of a loading or unloading operation conducted
9 within the boundary of a hazardous waste facility, the hazardous
10 waste shall not be held longer than 10 days outside of an authorized
11 unit at the facility. The hazardous waste shall be moved directly
12 between the authorized unit and the transport vehicle and shall not
13 be held for any time off the transport vehicle outside of the
14 authorized unit, except for that incidental period of time that is
15 necessary to safely and effectively move the waste from the
16 transport vehicle to the authorized unit or from the authorized unit
17 to the transport vehicle.

18 (2) All loading and unloading operations shall be conducted
19 within the boundary of the hazardous waste facility.

20 (3) There shall be adequate capacity within an authorized unit
21 at the hazardous waste facility for all hazardous waste being loaded
22 or unloaded in accordance with this section. Hazardous waste may
23 not be held on any transport vehicle which, if unloaded, would
24 exceed the permitted capacity of the originating or receiving unit
25 at the hazardous waste facility, unless the waste is held on the
26 transport vehicle as part of an authorized transfer operation.

27 (4) (A) The loading or unloading of bulk hazardous waste
28 shall be conducted with secondary containment within the
29 hazardous waste facility, unless otherwise approved by the
30 department. Secondary containment standards imposed by the
31 department shall require the capability of collecting and
32 containing leaks and spills during the loading and unloading
33 operation. The standards may include the use of movable
34 containment devices or other systems, consistent with the practical
35 operation of bulk transport vehicles.

36 (B) The department may establish specific secondary
37 containment regulations for bulk transfer areas for purposes of
38 subparagraph (A). Those regulations shall be designed to allow the
39 practical use of trucks and railcars.

(d) For purposes of this section, the following definitions apply:

(1) “Loading” means activities associated with removing packaged or containerized hazardous waste from an authorized unit or removing bulk hazardous waste from an authorized container, tank, or unit within a permitted hazardous waste facility, placing it on a transport vehicle within the facility, and shipping the waste offsite to another location in accordance with this chapter.

(2) “Transport vehicle” means a device, including a trailer, to propel, move or draw hazardous wastes by air, rail, highway, or water that is operated pursuant to the requirements of this chapter.

(3) “Unloading” means activities associated with the receipt of bulk, packaged, or containerized hazardous waste at a permitted hazardous waste facility from an offsite location, by means of a transport vehicle, and placing that packaged or containerized hazardous waste into an authorized unit or placing that bulk hazardous waste into an authorized container, tank, or unit within the facility in accordance with this chapter.

(e) The requirements of this section do not apply to hazardous waste being held or transferred pursuant to subparagraph (B) of paragraph (6) of subdivision (b) of Section 25123.3.

SEC. 3. Section 25250.7 of the Health and Safety Code is amended to read:

25250.7. (a) Except as provided in subdivision (b) or (c), no person who generates, stores, or transfers used oil shall intentionally contaminate used oil with other hazardous waste other than minimal amounts of vehicle fuel.

(b) A used oil transfer or recycling facility authorized by the department pursuant to Section 25200, 25200.5, or 25201.6 may mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous under the federal act, if both of the following conditions apply:

(1) If the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subsection (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, it is managed as a hazardous waste in accordance with all applicable hazardous waste regulations.

(2) The resultant mixture is used to produce recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, at

1 a used oil recycling facility solely by means of a process that has
2 been specifically authorized by the department.

3 (c) A generator or transporter may mix used oil with one or
4 more contaminated petroleum products if the mixture is managed
5 in accordance with Section 25143.2 or if all of the following
6 conditions apply:

7 (1) If the resultant mixture is subject to regulation as a
8 hazardous waste under paragraph (2) of subsection (b) of Section
9 279.10 of Title 40 of the Code of Federal Regulations, it is
10 managed as a hazardous waste in accordance with all applicable
11 hazardous waste regulations.

12 (2) (A) Except as provided in subparagraph (B), the resultant
13 mixture is transported to a used oil recycling facility that issues a
14 statement, in writing, to the generator or transporter that the
15 mixture will be used to produce recycled oil, as defined in
16 paragraph (3) of subdivision (a) of Section 25250.1, at a facility
17 authorized to operate pursuant to Section 25200 or 25200.5 solely
18 by means of a process that has been specifically authorized by the
19 department.

20 (B) If the resultant mixture is transported to a used oil recycling
21 facility located in another state, that facility is authorized by the
22 agency authorized to implement the federal act in that state.

23 (3) The mixing is not conducted in a manner that violates
24 subparagraph (C) of paragraph (3) of subdivision (a) of Section
25 25250.1.

26 (4) The transporter tests the halogen content of the used oil to
27 demonstrate compliance with clause (vi) of subparagraph (B) of
28 paragraph (3) of subdivision (a) of Section 25250.1 before mixing
29 the used oil with the contaminated petroleum product.

30 ~~SEC. 4.—Section 42702 is added to the Public Resources Code,~~
31 ~~to read:~~

32 ~~42702.—On or before July 1, 2004, the Director of~~
33 ~~Transportation and the board shall jointly report to the Legislature~~
34 ~~concerning the implementation of this article.~~

35 ~~(a) The report shall do all of the following:~~

36 ~~(1) Identify and attach copies of bid specifications relating to~~
37 ~~the purchase of materials specified in Section 42700, using~~
38 ~~recycled materials.~~

~~(2) Report on the number of contracts and percentage of purchases of materials using each recycled material enumerated in Section 42700.~~

~~(3) Report analyses conducted by the Department of Transportation regarding the quality and cost of paving materials that utilize recycled materials.~~

~~(4) Report on recommendations for increasing the use of recycled material in paving materials consistent with equal or better quality and equal or lower cost.~~

~~(b) To the extent that the recycled materials are derived from used oil recycling, the board shall in addition, consider and include in the report steps it could take to enhance the use of those materials, whether by research, education, or other means, pursuant to Chapter 4 (commencing with Section 48600) of Part 7.~~

~~SEC. 5.—~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.